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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,738	01/06/2004	Valla Vakili	600189-244	4764
61834 DREIER LLP 499 PARK AVE NEW YORK, NY 10022	7590 11/01/2007		EXAMINER SHUMATE, PAUL W	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/752,738		VAKILI ET AL.	
	Examiner		Art Unit	
	Paul Shumate		3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☒ Claim(s) 13,16,18,19,21,24,27,29,30 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10 March 2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 01/06/2004. Claims 1-3 are currently pending and have been examined.

Specification

2. The disclosure is objected to because of the following informalities: On page 31 of the specification, lines 4-5, [DETAILS OF OTHER FEATURES?] is written in bold print. It is unclear as to what this bold print entails and the examiner assumes that it was probably noted while drafting the specification as a reminder to the applicant (or representative drafting the application) and was forgotten and overlooked before submitting the application to the USPTO. Please remove or correct and clarify this informality. Appropriate correction is required.

Claim Objections

3. Claims 13, 16, 18, 19, 21, 24, 27, 29, 30, and 32 objected to because of the following informalities: each of the listed dependent claims recite a limitation already disclosed in the claim from which it depends. As an example, claim 13 states:

The method of claim 12, wherein said receiving comprises *receiving user preference data from the data network and broadcast programming content from the broadcast source*, wherein said user preference data is based on said plurality of auctioning preferences, said data network is the Internet, said broadcast source is a television programming source, and said broadcast-based client-side device includes a set top box that is coupled to the Internet and to said broadcast source

The limitation of claim 12 that claim 13 is intended to narrow states:

receiving, by a broadcast-based client-side device coupled to the data network, user preference data from said data network and broadcast programming content from a broadcast source, said user preference data to be based on said plurality of auctioning preferences

Therefore, if claim 13 were to be written in independent form, the "narrowed" limitation would read as follows:

Art Unit: 3694

receiving user preference data from the data network and broadcast programming content from the broadcast source, wherein said user preference data is based on said plurality of auctioning preferences, said data network is the Internet, said broadcast source is a television programming source, and said broadcast-based client-side device includes a set top box that is coupled to the Internet and to said broadcast source, by a broadcast-based client-side device coupled to the data network, user preference data from said data network and broadcast programming content from a broadcast source, said user preference data to be based on said plurality of auctioning preferences

Appropriate correction is required for all the noted claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 12-18, and 23-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al., US Patent No.: 6,637,029, in view of Hassell et al., US Patent Application Publication No.: US 2004/0107439 A1, further in view of Woolston et al., US Patent No.: 6,856,967.

As per claims 1, 12, and 23, Maissel teaches an intelligent electronic program guide that displays both broadcast and non-broadcast content:

- a user computer, coupled to a data network, to display a user interface usable to enter a plurality of *user* preferences; (see at least column 12 lines 45-60 and column 18 lines 35-57 of Maissel)
- a broadcast-based client-side device, coupled to the network, to receive user preference data from said data network based on said plurality of *user* preferences, and to receive broadcast programming content from a broadcast source, (see at least column 10 lines 22-37 and column 18 lines 35-67 of Maissel)
- said broadcast-based client-side device to include:

Art Unit: 3694

- a display to display a plurality of options based on said plurality of *user preferences*, (see at least column 20 lines 3-17 of Maissel)
- a user input device to select from among said plurality of *displayed options*, (see at least column 20 lines 18-2 of Maissel 7)

However, while Maissel does teach the above limitations for *user preferences* regarding which television program and channel information to provide, Maissel does not teach the above limitations for *auctioning preferences* and *auctioning options* or any other type of non-broadcast content related to electronic commerce. Maissel also does not teach the limitation:

- to place one or more bids on an auction item.

Hassell, however, teaches an "interactive television program guide system [which makes] available not only prescheduled video programming, but many other types of content [which] includes music services, special event feeds, *electronic commerce*, *Internet capabilities*, stock and news feeds, and an almost limitless amount of information (see at least paragraphs 0002 and 0003 of Hassell)" and "various non-program-guide applications may be implemented on set-top box 44 [which] allow the user to access the Internet [and] other facilities and services includ[ing] *banking services*, *shopping services*, *wagering or gaming services*, and information and other services (see at least paragraphs 0081 and 0088 in Hassell)." Hassell further teaches "the set-top box may provide a default arrangement of content that may be simultaneously displayed to the user. This arrangement may be an arrangement both in terms of content of windows and visual layout of windows on the user's display screen. This default may be a default set by the broadcast provider, it may be a user-defined default, it may be a default based on a set-top box's artificial intelligence mechanism that learns a particular user's tastes with respect to the content being viewed, or it may be any combination of these or other suitable mechanisms (see at least paragraph 0106 in Hassell)." Therefore the content being displayed in an electronic commerce or shopping service window may be related to the content being viewed, user-defined preferences, or a combination of either mechanism. While Hassell does teach the system and method shown above with respect to electronic commerce and online shopping, Hassell does not explicitly teach the system for auctions.

Art Unit: 3694

Woolston, however, teaches "TV broadcast/IP broadcast 812 carrier may be used to transport streaming bid/ask data to conventional television or digital television receivers [which may] provide automatic or semiautomatic filter and alarm conditions for the streaming bid/ask content [where] invoking the bid/ask content may invoke a World-Wide Web (WWW) browser application on the television enhancement device such as provides by WebTV TM or an integrated browser application as found in digital television receiver/processor designs (see at least column 13 lines 33-50 of Woolston)" wherein the filter feature provides "user programmable filter or alarm preferences (see at least column 12 lines 14-16 of Woolston)."

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the teachings of Maissel, Hassell, and Woolston to create a broadcast-based device with an interactive electronic program guide that would display auction content options related to and based on one or more of a user's current activities (viewing video content, searching the web, customizing their program guide), predefined content (and therefore auction) preferences, or historical usage patterns and activities that would further allow a user to make a selection from the displayed content, submit a bid on the selected option using an input device, and purchase the selected option upon winning the auction because "digital television demands a tool that will no only inform the user of the existence of content, but will present the content in a clear and efficient manner (see at least paragraph 0004 in Hassell)" and will aid users in the process of efficiently finding and purchasing goods or services related to the users' particular interests and preferences (see at least column 17 lines 16-19 of Woolston).

As per claims 2, 13, and 24, Maissel, Hassell, and Woolston further teach:

- wherein said data network is the Internet, said broadcast source is a television programming source, and said client-side device includes a set top box that is coupled to the Internet and to said broadcast source. (see at least column 10 lines 22-37 and column 15 lines 18-37 of Maissel, paragraph 0081 of Hassell, and column 13 lines 33-50 of Woolston)

Art Unit: 3694

As per claim 3, 14, and 25, Maissel, Hassell, and Woolston further teach:

- wherein said user interface is used to access a user account prior to entering said plurality of auction preferences, said user account to be used to associate said plurality of auctioning preferences with a particular user. (see at least column 11 line 65 to column 12 line 15 of Maissel, paragraph 0107 of Hassell, and column 15 lines 42-45 and column 21 lines 26-42 of Woolston)

As per claims 4, 15, and 26, Maissel, Hassell, and Woolston further teach:

- wherein said client-side device is associated with said user account and said plurality of auctioning preferences by performing a secure logon operation. (see at least column 11 line 65 to column 12 line 15 of Maissel, paragraph 0107 of Hassell, and column 15 lines 42-45 and column 21 lines 26-42 of Woolston)

As per claim 5, 16, and 27, Maissel, Hassell, and Woolston further teach:

- wherein said plurality of auctioning preferences includes at least one of preferred auctioning categories, payment method and product delivery information. (see at least paragraphs 0019 and 0129 in Hassell and column 6 lines 2-5, column 7 lines 24-28, column 8 lines 2-7, and column 8 lines 26-30 of Woolston)

As per claim 6, 17, and 28, Maissel, Hassell, and Woolston further teach:

- wherein said user preference data is based on at least one of said plurality of auctioning preferences and a user profile, where said user profile is based on tracking user activities. (see at least column 3 lines 1-8, column 12 lines 16-45, and column 17 lines 17-50 of Maissel, paragraphs 0014 and 0106 of Hassell, and column 13 lines 42-46 of Woolston)

As per claim 7, 18, and 29, Maissel, Hassell, and Woolston further teach:

- wherein said user activities include at least one of websites visited, online keyword searching, broadcast content viewed, broadcast content searching. (see at least column 3 lines 1-8, column 12 lines 16-45, and column 17 lines 17-50 of Maissel, paragraphs 0014, 0106, and 0129 of Hassell, and the abstract (see search engine), column 2 lines 50-57, and column 13 lines 42-46 of Woolston)

6. Claims 8-11, 19-22, and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. in view of Hassell et al. further in view of Woolston et al. further in view of Office Notice.

As per claims 8-11, 19-22, and 30-33 Maissel, Hassell, and Woolston teach the system and method as described above for electronic commerce and bid/ask auctions, but they do not specifically disclose the following limitations:

- wherein said plurality of auctioning options includes at least one of a list of available items to bid on, pending auctions and auctioning history. (Claims 8, 19, and 30)
- display an auction interface containing at least one of a description of said auction item, current bid for said auction item, number of bids made on said auction item, and remaining time left to bid on said auction item. (Claims 9, 20, and 31)
- wherein said one or more bids are placed using said user input device after said device has established a secure connection with a server coupled to said data network. (Claims 10, 21, and 32)
- wherein said server executes software that enables said auction item to be bid on by a plurality of users connected via said data network, and to be purchased by a high bidder of said plurality of users. (Claims 11, 21, and 32)

The examiner takes official notice that these limitations were old and well known in the art of online auctions. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to include these limitations in a system and method as taught above by Maissel in view Hassell further in view of Woolston.

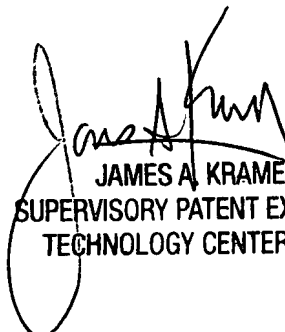
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Shumate whose telephone number is 571-270-1830. The examiner can normally be reached on M-F 8:30 AM - 6:00 PM, EST alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3694

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Name: Paul W. Shumate
Title: Patent Examiner
Date: 10/29/07
Signature:



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